

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,

Plaintiff

v.

BRIDGEPORT UNITED
RECYCLING, INC. and UNITED
UNITED OIL RECOVERY, INC.

Defendants

CIVIL ACTION NO.

COMPLAINT

The United States of America, by authority of the Attorney General and through the undersigned attorneys, acting at the request of the Administrator of the Environmental Protection Agency ("EPA"), alleges as follows:

NATURE OF ACTION

1. This is a civil action for injunctive relief and civil penalties against Defendants Bridgeport United Recycling, Inc. and United Oil Recovery, Inc. for violations of the Resource Conservation and Recovery Act, as amended, ("RCRA"), 42 U.S.C. §§6901 et seq. and the regulations promulgated under and authorized by RCRA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 3008(a) of RCRA, 42 U.S.C. §6928(a), and 28 U.S.C. §§ 1331, 1345 and 1355.

3. Venue is proper in this district pursuant to 28 U.S.C. §§1391(b), (c), and 1395(a), and 42 U.S.C. § 6928(a) because the alleged violations took place in this district.

NOTICE

4. Notice of commencement of this action has been given to the Connecticut Department of Environmental Protection ("CT DEP") pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

DEFENDANTS

5. Defendant Bridgeport United Recycling, Inc. ("BUR") is a corporation organized under the laws of the State of Connecticut with its corporate headquarters located at 14-16 West Main Street, Meriden, Connecticut.

6. Defendant BUR owns and operates a hazardous waste treatment, storage, and disposal facility located at 50 Cross Street, Bridgeport, Connecticut (the "BUR Facility").

7. BUR is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), RCSA § 22a-449(c)-100 and the applicable federal regulations.

8. Defendant United Oil Recovery, Inc. ("UOR") is a corporation organized under the laws of the State of Connecticut, with its corporate headquarters located at 14-16 West Main Street, Meriden, Connecticut.

9. Defendant UOR owns and operates a hazardous waste treatment, storage, and disposal facility located at 136 Gracey Avenue in Meriden, Connecticut (the "UOR Facility").

10. UOR is a "person" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), RCSA § 22a-449(c)-100 and the applicable federal regulations.

11. BUR and UOR are affiliated companies with common principals, management and/or ownership.

STATUTORY AND REGULATORY BACKGROUND

General

12. Subtitle C of RCRA establishes a comprehensive federal program for the management of hazardous wastes from their initial generation until their final disposal. 42 U.S.C. §§ 6921-6939. EPA has promulgated regulations pursuant to Subtitle C of RCRA that set forth the standards and requirements that are applicable to owners and operators of facilities that treat, store, or dispose of hazardous waste (commonly referred to as "TSDFs") and to generators and transporters of hazardous waste. These regulations are found at 40 C.F.R. Parts 260 through 279.

13. Section 3005(a)-(d) of RCRA, 42 U.S.C. § 6925(a)-(d), requires that all owners and operators of TSDFs obtain a permit in order to operate lawfully unless the TSDF has “interim status” pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e). For TSDFs that have permits, governing regulations are found at 40 C.F.R. Part 264. For TSDFs that have interim status, governing regulations are found at 40 C.F.R. Part 265.

14. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the Administrator of EPA may, under appropriate circumstances, authorize a State to administer the RCRA hazardous waste management program in that State in lieu of the federal program.

15. On December 31, 1990, EPA granted Connecticut final authorization to administer its hazardous waste program in lieu of the federal hazardous waste management program established under Subchapter III of RCRA, 42 U.S.C. §§ 6921 - 6939b. 55 Fed. Reg. 51707 (December 17, 1990). On September 28, 2004, Connecticut’s authorized hazardous waste program was amended to include additional provisions, including organic air omissions found in 40 C.F.R. Part 265 Subpart BB and Subpart CC. 69 Fed. Reg. 57842 (September 28, 2004). The provisions of the authorized Connecticut hazardous waste management program are federally enforceable by EPA in lieu of the analogous provisions of the federal regulations. Where the authorized Connecticut hazardous waste management program does not include a counterpart to regulations that EPA has promulgated, the federal regulations are additional requirements that EPA may enforce, in addition to the authorized State program.

16. The authority for the Connecticut hazardous waste program is set out at Chapter 22a of the Connecticut General Statutes, with implementing regulations promulgated as Regs. Conn. State Agencies (“RSCA”) § 22a-449(c)-100 et seq.

Subpart BB: Air Emission Standards for Equipment Leaks

17. For both permitted TSDFs and TSDFs with interim status, standards exist for air emissions caused by leaks in equipment that is in light-liquid service, or that contains or contacts hazardous wastes with an organic content of at least ten (10) percent by weight. These standards

are found at Subpart BB of Part 264 and Subpart BB of Part 265. 40 C.F.R. §§ 264.1050 - 1065; 40 C.F.R. §§ 265.1050 - 1064.

18. Pursuant to 40 C.F.R. § 264.1050(c), the standards for air emissions from equipment leaks found in Subpart BB of Part 265 apply to owners and operators of TSDFs that received a RCRA permit prior to December 6, 1996, unless the RCRA permit is reissued in accordance with 40 C.F.R. § 124.15 or reviewed in accordance with 40 C.F.R. § 270.50(d).

19. Subpart BB of 40 C.F.R. Part 265 became effective on December 6, 1996.

**Subpart CC: Air Emission Standards for Tanks,
Surface Impoundments and Containers**

20. For both permitted TSDFs and TSDFs with interim status, standards exist for air emissions from hazardous waste tanks, surface impoundments, and containers. These standards are found at Subpart CC of Part 264 and Subpart CC of Part 265. 40 C.F.R. §§ 264.1080 – 1090; 40 C.F.R. §§ 265.1080 – 1090.

21. Pursuant to 40 C.F.R. § 264.1080(c), the standards for air emissions from tanks, surface impoundments, and containers found in Subpart CC of Part 265 apply to owners and operators of TSDFs that received a RCRA permit prior to December 6, 1996, unless the RCRA permit is reissued in accordance with 40 C.F.R. § 124.15 or reviewed in accordance with 40 C.F.R. § 270.50(d).

22. Pursuant to 40 C.F.R. § 265.1083(b), such owners and operators must manage air emissions from tanks, surface impoundments and containers in accordance with the standards specified in 40 C.F.R. § 265.1085 - 1088.

23. Subpart CC of 40 C.F.R. Part 265, became effective on December 6, 1996.

RCRA Enforcement Provisions

24. Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), provides that whenever EPA determines that any person has violated or is violating any requirement of RCRA, including any

provision of a permit, the United States may file a civil action in federal district court to obtain appropriate relief, including a temporary or permanent injunction.

25. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), provides that any person who violates a requirement of RCRA, including any provision of a permit, shall be liable for civil penalties of: (i) up to \$27,500 per day for each violation of RCRA occurring between January 30, 1997, and March 15, 2004; and (ii) up to \$32,500 per day for each violation occurring on and after March 15, 2004.

GENERAL ALLEGATIONS

26. The BUR Facility is a hazardous waste generator, transporter, and treatment, storage, and disposal facility, as those terms are defined at 40 C.F.R. § 260.10 and RCRA § 22a-449(c)-100(b)(1).

27. At the time of the violations alleged in this Complaint, the BUR Facility was operating as an interim status facility, as that term is defined at 40 C.F.R. § 265.1(b) and 40 C.F.R. § 270.70(a).

28. As the owner and operator of an interim status hazardous waste treatment, storage, and disposal facility, BUR was governed by RCRA § 22a-449(c)-105, which incorporates by reference the regulations found at 40 C.F.R. Part 265.

29. The UOR Facility is a hazardous waste generator, transporter, and treatment, storage and disposal facility, as those terms are defined at 40 C.F.R. § 260.10 and RCRA § 22a-449(c)-100(b)(1).

30. The UOR Facility is, and at all times relevant hereto was, required to operate pursuant to a hazardous waste permit issued by the CT DEP.

CLAIMS FOR RELIEF AGAINST
BRIDGEPORT UNITED RECYCLING

FIRST CLAIM

Failure To Operate Pressure Relief Devices In Gas/Vapor
Service With No Detectable Emissions

31. The allegations in Paragraphs 1 - 30, are realleged and incorporated herein by reference.

32. Pursuant to 40 C.F.R. § 265.1054(a), except during pressure releases, owners and operators must operate pressure relief devices in gas/vapor service with no detectable emissions, as indicated by an instrument reading of less than 500 parts per million (ppm) above background, as measured by the method specified in 40 C.F.R. § 265.1063.

33. During a September 2003, RCRA compliance inspection ("September 2003 RCRA compliance inspection") of the BUR Facility conducted by EPA Region I, EPA inspectors detected emissions from pressure release devices in gas/vapor service, as indicated by an instrument reading of over 500 ppm above background, as measured by the method specified in 40 C.F.R. § 265.1063.

34. By failing to operate pressure relief devices in gas/vapor service with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in 40 C.F.R. § 265.1063, BUR violated 40 C.F.R. § 265.1054(a).

35. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), BUR is subject to civil penalties of up to \$27,500 per day for each violation referred to in the preceding Paragraph.

SECOND CLAIM

Failure To Comply With Recordkeeping Requirements

36. The allegations of paragraphs 1 - 30, are realleged and incorporated herein by

reference.

37. Pursuant to 40 C.F.R. § 265.1064(k)(3), as part of the regulation's record keeping requirements, owners and operators must maintain in the facility operating records, an up-to-date analysis and the supporting information and data used to determine whether or not equipment is subject to the requirements in §§ 265.1052 - 1060.

38. During the September 2003 RCRA compliance inspection, EPA reviewed the BUR Facility's operating records. The operating records did not contain the up-to-date analysis and supporting information required by 40 C.F.R. § 265.1064(k)(3).

39. By failing to maintain the required information in the BUR Facility's operating records, BUR violated 40 C.F.R. § 265.1064(k)(3).

40. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), BUR is subject to civil penalties of up to \$27,5000 per day for each violation referred to in the preceding Paragraph.

THIRD CLAIM

Failure To Meet The Required Removal Efficiency For Control Device

41. The allegations of paragraphs 1 - 30, are realleged and incorporated herein by reference.

42. RSCA § 22a-449(c)-105 incorporates by reference 40 C.F.R. Part 265, except as provided in RSCA § 22a-449(c)-105(a)(1) and (2).

43. The BUR Facility includes a closed-vent system and control device to control air emissions.

44. Pursuant to 40 C.F.R. § 265.1085(g)(1), owners and operators of tanks vented through a closed-vent system to a control device must have a fixed roof tank and the closed-vent system and control device must be designed and operated in accordance with 40 C.F.R. §

265.1088.

45. Pursuant to RCSA § 22a-449(c)-105(a)(2)(LLLLL), which incorporates by reference 40 C.F.R. § 265.1088(c)(1)(i), a carbon adsorption system may be used as a control device for a fixed roof tank if it is designed and operated to reduce the total organic content of the inlet vapor stream by at least 95% by weight.

46. The BUR Facility uses a carbon adsorption system as a control device for its fixed roof tanks.

47. Pursuant to RCSA § 22a-449(c)-105(a)(1), which incorporates by reference 40 C.F.R. § 265.1088(c)(5)(i), the removal efficiency of the carbon adsorption system must be demonstrated through either a performance test as specified in 40 C.F.R. § 265.1088(c)(5)(iii) or a design analysis as specified in 40 C.F.R. § 265.1088(c)(5)(iv).

48. BUR conducted a performance test in January 2006. During the performance test, the BUR Facility's control device failed to meet the required 95% removal efficiency, by weight.

49. By failing to meet the required removal efficiency during the performance test, BUR violated RCSA § 22a-449(c)-105(a)(2)(LLLLL), which incorporates by reference 40 C.F.R. § 265.1088(c)(1)(i).

50. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), BUR is subject to civil penalties of up to \$32,500 per day for each violation referred to in the preceding Paragraph.

FOURTH CLAIM

Failure To Comply With Recordkeeping Requirements

51. The allegations of paragraphs 1- 30, are realleged and incorporated herein by reference.

52. Pursuant to 40 C.F.R. §265.1090(e), owners or operators using a closed-vent system and a control device in accordance with 40 C.F.R. §265.1088 shall prepare and maintain

records with respect to the control device.

53. Pursuant to 40 C.F.R. §265.1090(e)(1)(vi), the owner or operator using a closed-vent system and a control device shall record and maintain records for unexpected control device malfunctions that result in the control device not meeting the requirements of §265.1088(c)(1)(i), (ii) and (iii). The required information includes: (A) the occurrence and duration of each malfunction of the control device system, (B) the duration of each period during a malfunction when gases, vapors or fumes are vented from the waste management unit through the closed-vent system to the control device while the control device is not properly functioning, and (C) actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation.

54. During the September 2003 RCRA compliance inspection, EPA reviewed monitoring data from the control device and found instances when the control device malfunctioned. EPA further found that the BUR Facility failed to record the information required by 40 C.F.R. § 265.1090(e)(1)(vi) in the operating records for the instances when the control device malfunctioned.

55. By failing to record the required information in the BUR Facilities' records, BUR violated 40 C.F.R. § 265.1090(e)(1)(vi).

56. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), BUR is subject to civil penalties of up to \$27,500 per day for each violation referred to in the preceding Paragraph.

CLAIMS FOR RELIEF AGAINST
UNITED OIL RECOVERY, INC.

FIFTH CLAIM

Failure To Perform Waste Verification Testing and Implement
Waste Verification Procedures

57. The allegations of paragraphs 1- 30, are realleged and incorporated herein by

reference.

58. Pursuant to Section IV.A.5. of the hazardous waste permit issued by the CT DEP, the UOR Facility is required, inter alia, to perform waste verification testing for flash point or total halogens on incoming spent parts washer solvent; to perform waste verification testing on 10% of the containers for each hazardous waste stream; and implement procedures to adequately verify that waste received at the UOR facility matches the waste identified on the chain of custody forms.

59. In June/July, 2003 and September 2003, CT DEP conducted RCRA compliance evaluation inspections of the UOR Facility. During the inspections CT DEP reviewed the UOR Facility's records.

60. UOR Facility records document that on June 18, 2003, the UOR Facility received four shipments of parts washer solvent. The UOR Facility records further document that the UOR Facility: (1) failed to perform flash point or total halogens waste verification testing on the four shipments; and (2) failed to perform waste verification testing on 10% of the containers from each of the four shipments.

61. The UOR Facility records document that on May 9, 2003, the UOR Facility received four different hazardous waste streams. The UOR Facility records further document that the UOR Facility failed to perform waste verification testing on 10% of the containers from each of the four shipments.

62. The UOR Facility records document that tetrachloroethylene was identified in the chain of custody forms for a shipment received at the facility on May 10, 2003. The UOR Facility conducted a test on the shipment and detected tetrachloroethylene. A second test conducted on the same shipment did not detect tetrachloroethylene. A third test of the shipment detected tetrachloroethylene. This demonstrates that the UOR Facility failed to implement procedures, including testing, to adequately verify that waste received at the UOR Facility

matches the waste identified on the chain of custody forms.

63. The UOR Facility's failures to perform waste verification testing for flash point or total halogens on incoming spent parts washer solvent; to perform waste verification testing on 10% of the containers for each hazardous waste stream; and to implement procedures to adequately verify that waste received matches the waste identified on the chain of custody forms each constitute violations of Section IV.A.5. of the hazardous waste permit issued by the CT DEP.

64. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), UOR is subject to a civil penalty of up to \$27,500 per day for each violation referred to in Paragraphs 60 - 63.

SIXTH CLAIM
Failure To Perform Waste Verification Testing Prior
To Mixing Or Co-mingling Wastes

65. The allegations of paragraphs 1- 30, are realleged and incorporated herein by reference.

66. Pursuant to Section IV.A.7. of the hazardous waste permit issued by the CT DEP, the UOR Facility is required, inter alia, to perform waste verification testing prior to bulking or co-mingling wastes.

67. During the June/July 2003 inspection, CT DEP reviewed the UOR Facility's records.

68. The UOR Facility records document that on June 18, 2003, the UOR facility received four shipments of parts washer solvent. The UOR Facility failed to perform waste verification testing on these four shipments until after they were co-mingled in the Facility's 1,000 gallon degrit chamber.

69. The UOR Facility's failure to waste verification sampling prior to co-mingling the four June 18, 2003 shipments of parts washer solvent constitutes a violation of Section IV.A.7. of

the hazardous waste permit issued by the CT DEP.

70. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), UOR is subject to a civil penalty of up to \$27,500 per day for each violation referred to in Paragraph 68.

SEVENTH CLAIM
Failure To Request A Permit Modification

71. The allegations of paragraphs 1- 30, are realleged and incorporated herein by reference.

72. Pursuant to Section I.E.12.a. of the hazardous waste permit issued by CT DEP and RCSA § 22a-449(c)-110(a)(1), which incorporates by reference 40 C.F.R. §270.42(a), UOR must give notice to CT DEP of any planned physical alteration of UOR Facility and obtain a modification of the permit for material and substantial alterations to the UOR Facility.

73. In December 1999, UOR informed CT DEP that it intended to install an overhead door and a new waste container processing station at the UOR Facility.

74. In February 2000, CT DEP responded and informed UOR that these installations would require a permit modification.

75. During the June/July 2003 and September 2003 inspections, CT DEP found that UOR had modified the waste container processing station without obtaining a permit modification.

76. By failing to obtain a modification of the hazardous waste permit issued by CT DEP, UOR violated Section I.E.12.a. of the permit and RCSA § 22a-449(c)-110(a)(1).

77. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), UOR is subject to a civil penalty of up to \$27,500 per day for each violation referred to in the preceding Paragraph.

EIGHTH CLAIM
Acceptance Of Unpermitted Waste

78. The allegations of paragraphs 1- 30, are realleged and incorporated herein by reference.

79. Section II.B.2. of the hazardous waste permit issued by CT DEP lists wastes permitted to be received by the UOR Facility.

80. During the June/July 2003 inspection CT DEP reviewed documents and found that unpermitted wastes were received at the UOR Facility

81. By accepting unpermitted waste, UOR violated Section II.B.2. of the hazardous waste permit issued by CT DEP.

82. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), UOR is subject to civil penalties of up to \$27,500 per day for each violation referred to in the preceding Paragraph.

NINTH CLAIM
Failure To Label Or Mark Containers Of Hazardous Waste

83. The allegations of paragraphs 1- 30 are realleged and incorporated herein by reference.

84. Pursuant to RCSA §§ 22a-449(c)-102(a)(2)(J) and (a)(2)(N), which incorporate by reference 40 C.F.R. §§262.34(c)(1)(ii) and 262.34(a)(3), the UOR Facility is required to mark or label containers used for satellite accumulation of hazardous waste with the words "hazardous waste" and with other words that identify the contents of the containers.

85. During the September 2003 inspection, CT DEP observed three 5-gallon satellite accumulation containers that were not labeled with the words "hazardous waste."

86. By failing to label the containers with the words "hazardous waste", UOR violated RCSA § 22a-449(c)-102(a)(2)(J) and (a)(2)(N).

87. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), UOR is subject to a civil penalty of up to \$27,500 per day for each violation referred to in the preceding Paragraph.

TENTH CLAIM

Failure To Mark Hazardous Waste Containers With The Accumulation Date

88. The allegations of paragraphs 1- 30 are realleged and incorporated herein by reference.

89. Pursuant to RCSA § 22a-449(c)-102(a)(1), which incorporates by reference 40 C.F.R. Section 262.34(a)(2), the UOR Facility is required to mark each hazardous waste container with the date on which accumulation of the waste began.

90. During the September 2003 inspection, CT DEP observed two cardboard boxes of spent mercury-containing lamps that were not marked with the date on which accumulation began.

91. By failing to mark the cardboard boxes with the date on which accumulation began, UOR violated RCSA § 22a-449(c)-102(a)(1).

92. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), UOR is subject to a civil penalty of up to \$27,500 per day for each violation referred to in the preceding Paragraph.

PRAYER FOR RELIEF

WHEREFORE, the United States of America respectfully prays that the Court grant the following relief:

1. Order BUR to comply with RCRA and its implementing regulations, including the approved Connecticut hazardous waste management program;
2. Order UOR to comply with RCRA and its implementing regulations, including the approved Connecticut hazardous waste management program;
3. Assess civil penalties for BUR's violations of RCRA, and its implementing

regulations of (i) up to \$27,500 per day per violation occurring between January 1, 1999, and March 15, 2004; and (ii) up to \$32,500 per day of violation occurring on and after March 15, 2004;

4. Assess civil penalties for UOR's violations of RCRA, and its implementing regulations of (i) up to \$27,500 per day per violation occurring between January 1, 1999, and March 15, 2004; and (ii) up to \$32,500 per day of violation occurring on and after March 15, 2004;
5. Award costs and disbursement incurred herein; and
6. Grant such other relief as may be appropriate.

Respectfully submitted,

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